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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

KENNETH COUNTS,

Plaintiff,

vs.

WESTROCK PACKAGING SYSTEMS,
LLC; DOES I – X, and ROE
CORPORATIONS XI – XX, inclusive,

Defendants.

CASE NO: 2:23-cv-01256-JAD-BNW

**STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND
SCHEDULING ORDER TO ACCOMMODATE PRIVATE MEDIATION
(FOURTH REQUEST)**

Plaintiff Kenneth Counts and Defendant Westrock Packaging Systems, LLC, by and through their respective counsel, and pursuant to Local Rule 26-4, and via this Fourth Request stipulate to modify their discovery plan. **The parties have agreed to a private mediation through ARM with Paul Haire, Esq., as the mediator to take place on March 3, 2025.** The parties therefore are requesting this extension in order to conserve expert fees and fees for depositions of experts and to allow for preparation of briefs and for the mediation to go forward. The parties are requesting that the court grant 90-day extension of the deadlines in order to allow the mediation to go forward and the parties to prepare and mediate. Relevant case history is as follows:

1. Plaintiff filed his Complaint on June 29, 2023 in the Eighth Judicial District Court, Clark County, Nevada

2. Defendant answered on August 3, 2023.

3. Defendant removed the matter to this court on August 11, 2023.

4. Counsel for the parties conducted a Fed. R. Civ. P. 26(f) conference on August 23, 2023. The parties submitted their Joint Discovery Plan and Scheduling Order to the Court on September 7, 2023. The Court approved the parties' request for Special Scheduling Review. [ECF 8] The discovery plan was approved by United States Magistrate Judge Brenda Weksler on September 12, 2023.

5. A motion hearing held on October 28, 2024, before Magistrate Judge Brenda Weksler, the discovery deadlines were extended [ECF 32] to the following:

Discovery Cut-Off:	04/21/25
Last Day to Amend Pleadings:	CLOSED
Expert Disclosure Deadline:	02/24/25
Rebuttal Expert Disclosure:	03/24/25
Dispositive Motions Deadline:	05/21/25
Pre-Trial Order:	06/20/25

6. In compliance with Local Rule 26-4, the parties provide the following information regarding the discovery status:

(a) Discovery Completed pursuant to Fed. R. Civ. P. 26(a):

Defendant:

Defendant's Initial Disclosures	09/06/2023
Defendants Noticed the Deposition of the Custodian of Records for Truckland Inc.	09/25/2023
Defendant's Requests for Production of Document	09/26/2023
Defendant's Interrogatories	09/26/2023
Defendant's First Supplement Disclosures	10/24/2023
Defendant's Second Supplement Disclosures	11/16/23

1	Defendant's Third Supplement Disclosures	11/30/2023
2	Defendant's Fourth Supplement Disclosures	12/07/2023
3	Defendant's Fifth Supplement Disclosures	12/21/2023
4	Defendant's Sixth Supplement Disclosures	02/02/2024
5	Defendant's Seventh Supplement Disclosures	03/11/2024
6	Defendant Answered Written Discovery	03/11/2024
7	Defendants Scheduled the Deposition of Plaintiff	05/21/2024
8	Defendant's Eighth Supplement Disclosures	07/01/2024
9	Defendant Noticed the Deposition of Plaintiff	08/06/2024

Plaintiff:

11	Plaintiff's Initial Disclosures	08/31/2023
12	Plaintiff's Notice of Deposition of Westrock Packaging	09/27/2023
13	System's Rule 30(b)(6) witness	
14	Plaintiff's Amended NOD of Westrock Packaging	10/19/2023
15	System's Rule 30(b)(6) witness	
16	Plaintiff's 2 nd Amended NOD of Westrock Packaging	02/27/2024
17	System's Rule 30(b)(6) witness	
18	Plaintiff's 3 rd Amended NOD of Westrock Packaging	02/28/2024
19	System's Rule 30(b)(6) witness	
20	Deposition of Westrock PMK	03/26/2024
21	Notice of Deposition of Desman Miranda	04/18/2024
22	Deposition of Desman Miranda	05/14/2024
23	Plaintiff's First Supplement Disclosures	11/07/2023
24	Plaintiff Answered Written Discovery	11/29/2024
25	Plaintiff's Interrogatories to Westrock Packaging System	02/0/2024
26	Plaintiff's Request for Production to Westrock Packaging	02/01/2024

(b) Discovery that remains to be completed:

- Continue to pursue copies of medical records via authorization. Defendant needs to

1 obtain these medical records from Plaintiff's medical providers regarding Plaintiff's
 2 current treatment as well as medical record of any relevant past or subsequent dates of
 3 loss.

- 4 • Continue to exchange written discovery between the parties.
- 5 • Conduct depositions of witnesses.
- 6 • The parties need to designate experts and rebuttal experts and exchange designations of
 7 experts and their reports.
- 8 • The parties need to conduct the depositions of Plaintiff's experts and Defendant's experts.

9
 10 **(c) Reasons why discovery was not completed:**

11 **The parties have agreed to a private mediation through ARM with Paul Haire, Esq.,**
 12 **as the mediator to take place on March 3rd, 2025.** The parties therefore are requesting this
 13 extension in order to conserve expert fees and fees for depositions of experts and to allow for
 14 preparation of briefs and for the mediation to go forward. The parties are requesting that the court
 15 grant 90 day extension of the deadlines in order to allow the mediation to go forward and the
 16 parties to prepare and mediate.

17 **(d) Proposed Schedule:**

18 The parties propose a 90-day extension to all discovery deadlines so as to effectively
 19 accommodate the March 3, 2025 mediation. Those proposed extended dates will be:

20	Discovery Cut-Off:	07/21/2025
21	Last Day to Amend Pleadings:	CLOSED
22	Expert Disclosure Deadline:	05/26/2025
23	Rebuttal Expert Disclosure:	06/26/2025 ⁴
24	Dispositive Motions Deadline:	08/21/2025
25	Pre-Trial Order:	09/22/2025

26 (If dispositive motions are filed, the deadline for the filing of the joint pre-trial order will
 27 be suspended until 30 days after decision on the dispositive motions or further court order.)
 28

CONCLUSION

For the foregoing reasons, the parties herein respectfully request this Honorable Court to modify the Discovery Plan and Scheduling Order to extend all discovery deadlines.

Approved as to form and content:

Dated this 6 th day of February 2025.	Dated this 6 th day of February 2025.
Schuetze, McGaha, Turner & Ferris, PLLC	Thorndal Armstrong, PC
By <u>/s/William W. McGaha</u> William W. McGaha, Esq. 601 S. Rancho, Ste. C-20 Las Vegas, NV, 89106 Phone 702-369-3225 Fax 702-369-2110 Counsel for Plaintiff <i>Kenneth Counts</i>	By <u>/s/ Bruce Dickinson</u> Bruce Dickinson, Esq. 600 S. Las Vegas Blvd., Ste. 400 Las Vegas, NV 89101 Phone: 702-366-0622 Fax: 702-366-0327 Counsel for Defendant, <i>Westrock Packaging Systems, LLC</i>

ORDER

The Court GRANTS the parties' above stipulation. However, it is not inclined to grant further continuances. IT IS SO ORDERED.

Dated this 7th day of February 2025.


UNITED STATES MAGISTRATE JUDGE

Donna Brand

From: Bruce S. Dickinson <bsd@thorndal.com>
Sent: Thursday, February 6, 2025 10:43 AM
To: Bill McGaha
Cc: Donna Brand; Jeremi Fajardo; Star Farrow-Plewnarz
Subject: RE: Counts, Kenneth v. Westrock Packaging Systems 2:23-cv-01256

We are confirmed for March 3. OK to submit the SAO and e-sign for me.

Thanks Bill and staff for getting this completed.

Please also add Star to the cc list so we can track and respond to your emails.

Bruce

From: Bill McGaha <bmcgaha@smlvlaw.net>
Sent: Tuesday, February 4, 2025 2:31 PM
To: Bruce S. Dickinson <bsd@thorndal.com>
Cc: Donna Brand <dbrand@smlvlaw.net>; Jeremi Fajardo <jfajardo@smlvlaw.net>
Subject: Re: Counts, Kenneth v. Westrock Packaging Systems 2:23-cv-01256
Importance: High

Bruce:

Attached is a draft stipulation and order to accommodate the March 3, 2025 mediation. Please let me know if you have any changes and or additions. If it is acceptable please let us know and we can affix your electronic signature.

Appreciated,
Bill

From: Bill McGaha <bmcgaha@smlvlaw.net>
Sent: Tuesday, February 4, 2025 11:49 AM
To: Bruce S. Dickinson <bsd@thorndal.com>
Cc: Donna Brand <dbrand@smlvlaw.net>; Jeremi Fajardo <jfajardo@smlvlaw.net>
Subject: Fw: Counts, Kenneth v. Westrock Packaging Systems 2:23-cv-01256
